BOOK REVIEW

CONTROL AND TAKEOVER OF COMPANIES AS STRATEGY OF GROWTH

Gijs Van Dijck

Luboš Smrčka, Jan Plaček. Control and Takeover of Companies as Strategy of Growth


The book describes issues of mergers and acquisitions in a way that can be easily understood by non-experts in the field of takeovers, mergers and acquisitions. The author positions himself in the psychological arena of mergers and acquisitions referring in the introduction to the fact that the branch of mergers and acquisitions is “full of emotions and irrational steps” and that it is a world where economics and wants, needs, and desires come together. The psychological perspective behind the economic background of numbers triggers the reader to read the rest of the book.

The book consists of six chapters. Chapter 1 discusses the concept of price and value. It concludes that the concept of ‘demand’ has various dimensions and that a company’s market price does not have to represent its ‘true’ value, but that it rather reflects a psychological value. The chapter subsequently discusses the role of analysts, the limitations of their predictions, optimism among business owners, using these insights to explain why and how mergers and acquisitions can go wrong.

Chapter 2 gives a theoretical perspective of mergers and acquisitions. It includes an elaboration of the phases and eras that mergers and acquisitions have been through, the types of mergers and acquisitions and the motives for them, and the difference between friendly and hostile takeovers. Chapter 3 proceeds with a discussion of the legal framework in the Czech Republic. This chapter lays out the legal provisions and developments in the last decades. It turns out that the idea of mergers and acquisitions is a relatively new phenomenon, at least compared to most market economies considering the political and economic history of the Czech Republic. Chapter 4 subsequently discusses the issue of hostile takeovers. The book applies the insights of hostile takeovers on the Czech Republic and countries with similar economies. Hostile takeovers are, for example, less likely in the Czech Republic than in various other economies because of the lack of companies on the public market. An interesting scenario that the book describes is the scenario where a hostile takeover takes place in insolvency, with the one filing for insolvency using the insolvency procedure to have the company, or part of it, being sold to him or to a related person. Insolvency law does not have a good answer to such a scenario.

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Chapter 5 deals with the insolvency framework. It discusses the redistribution of wealth in insolvency proceedings. It starts describing what losses bankruptcies cause, and for whom. As in other countries, the return falls well below what is desirable from a creditors’ point of view, which results in significant losses for them. The author rightly notes that states need a bankruptcy procedure where creditors can try to fully satisfy their claims, but only up till the start of the insolvency procedure. At that point, the assets are ‘freezed’ and will be equally divided among creditors, that is, according to their rank and proportionate to the size of their claims. In practice, as the book describes, creditors becomes ‘apathetic’ in insolvency procedure, because they feel their return will remain the same regardless of whether they actively participate or not (and they may be right). The lack of control presumably also plays a role. As a result, they generally lose interest in being actively involved in the insolvency procedure.

Finally, Chapter 6 provides empirical information on creditors’ recovery in Czech bankruptcies. The results show, among other data, that creditors have low recovery rates (less than 5% for non-secured creditors, 25% for secured creditors). These findings are in line with the results found in other countries. Similar results have been reported in England (creditors receive 7% on average of what they are owed, do not recover the debt in 70% to 90% of the cases), the Netherlands (no recovery in 90% to 92% of the cases disposed, recovery rates between 2% and 5%), and the United States (no distributions beyond payment of direct costs in 90% of the cases, recovery rates for unsecured creditors of less than 5%).

The book provides interesting insights in the economic and legal aspects of control and takeovers. It succeeds in informing the reader about the two, sometimes distinct, worlds that are involved. This is not an easy task, but the author provides a comprehensible introduction of the economic and legal perspectives involved in control and takeovers. The examples that are chosen are clear and illustrative. Perhaps it would have been possible to further integrate the several chapters. For example, the chapter on insolvency proceedings is interesting, but its relationship with the previous chapters and, more generally, the theme of control and takeover, could have deserved more attention. Additionally, an interesting question is how legislators, the Czech legislator in particular, can or should use the psychological insights of economic behaviour as described in the first chapters to optimize their legal framework (Chapter 3) or perhaps the insolvency proceedings (Chapter 5). This is not to blame the author. Such questions remain a real challenge for all researchers in the field. Moreover, this weakness is also a strength of the book. The strength of the book is that the chapters stand on their own, and that they, together, cover a wide variety of topics.

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1 Some exceptions exist. Transaction avoidance rules can be used to void or nullify certain transactions made before the commencement of the insolvency proceedings.